

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33697

NATIONAL RAILROAD PASSENGER CORPORATION—PETITION FOR  
DECLARATORY ORDER—WEIGHT OF RAIL

Decided: January 31, 2003

Pursuant to our authority to prescribe terms under which freight railroads must allow the National Railroad Passenger Corporation (Amtrak) access to their lines, on October 22, 1999, we issued a decision (Weight of Rail I) in this proceeding requiring Guilford Rail System (Guilford)<sup>1</sup> to permit Amtrak to operate over one of Guilford's lines at speeds consistent with Federal Railroad Administration (FRA) Class 4 track safety standards (i.e., a maximum of 79 miles per hour (mph)), provided that a certain level of line rehabilitation was achieved. Substantial work was done on the line at issue, and the line was tested to determine that it met the required level of rehabilitation, but Guilford did not permit Amtrak to operate at 79 mph. Accordingly, on April 12, 2002, Amtrak filed a motion requesting that we clarify our decision in Weight of Rail I, find that Amtrak has completed the necessary rehabilitation, and require Guilford to permit it to operate at FRA Class 4 track speeds.<sup>2</sup> On June 10, 2002, Guilford submitted a reply in opposition, to which Amtrak submitted a rebuttal.

We find that Amtrak has completed the line rehabilitation, according to the terms set out in Weight of Rail I. Therefore, it has complied with our conditions, and our analysis of this matter is complete. Accordingly, subject to FRA's safety jurisdiction, Guilford must permit Amtrak to operate over the line at issue at FRA Class 4 speeds.

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<sup>1</sup> Springfield Terminal Railway Company, Boston and Maine Corporation, and Portland Terminal Company are referred to collectively as "Guilford."

<sup>2</sup> The Northern New England Passenger Rail Authority, a political body and corporation established by the State of Maine to promote rail passenger service between points in Maine and points within and outside of Maine, and the organization that arranged public and private funding for rehabilitation of the line at issue here, intervened on Amtrak's behalf.

## BACKGROUND

Guilford owns a 78-mile line between Plaistow, NH, and Portland, ME, that is part of Amtrak's route between Boston, MA, and Portland, ME. Upon application by Amtrak, we established terms and conditions of access that required rehabilitation of the line to meet FRA Class 3 safety standards so that Amtrak could operate over the line at speeds of up to 60 mph. See National R.R. Passenger Corp.—Applic.—49 U.S.C. 24308(a), 3 S.T.B. 157 (1998).

Subsequently, after Federal funding was obtained to allow further upgrade of the line to a level that would support Amtrak operations at speeds of up to 79 mph, we were again called upon to exercise our authority to prescribe the terms of access. In Weight of Rail I, based on input from FRA, we held that the use of 115-pound continuous welded rail on the line would be sufficient for safe Amtrak operation of trains at speeds of up to 79 mph, provided that the line was rehabilitated to a level that produces "track modulus" values of not less than 2,750 lb/in<sup>2</sup>, and that the line otherwise satisfies FRA's track safety standards for rail passenger operations up to such speeds.

In a decision in this proceeding served on June 29, 2001 (Weight of Rail II), we ordered Guilford to allow Amtrak access to the line to test the track modulus values to determine whether the line had been rehabilitated to the level set out in Weight of Rail I. We found that Amtrak's use of the Transportation Technology Center, Inc. (TTCI) to test the line would be a reasonable and practical method of conducting this test. And we concluded that:

[i]f the testing demonstrates that the track modulus requirements specified in our prior decision are met, then no further track modulus testing will be required, provided that the line is maintained to FRA Class 4 standards, the line is subject to routine FRA-mandated track safety inspections, and the line is periodically inspected by a track geometry car . . . .

Weight of Rail II, at 7.

TTCI tested the line in 2001. According to Amtrak, TTCI's testing demonstrates that 99.95% of the line has a track modulus value greater than the 2,750 lb/in<sup>2</sup> level set out in Weight of Rail I. Specifically, TTCI reports that the average track modulus of the line is 5,346 lb/in<sup>2</sup>, and that only an aggregate of 166 feet (in 14 locations) of the 78-mile line falls below the 2,750 lb/in<sup>2</sup> level.<sup>3</sup>

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<sup>3</sup> Amtrak states that most of the below-par track is concentrated in the Kennebunk, ME area, where Amtrak intends to operate at only 30 mph. Guilford identifies additional locations that it claims fall below the 2,750 lb/in<sup>2</sup> track modulus value.

Nevertheless, Guilford has not accepted the TTCI test results and has not allowed Amtrak to operate at speeds of up to 79 mph over the line. Amtrak therefore asked us for a ruling that, in light of the test results, an overall rehabilitation level consistent with our earlier decision had been achieved, and that Guilford must allow it to operate on the line at such speeds. We instituted a proceeding and requested that FRA provide analysis and comment, which we received on July 8, 2002 (FRA July comments), and October 11, 2002 (FRA October comments).

## DISCUSSION AND CONCLUSIONS

We have the statutory authority to prescribe terms of access, and that is why we have entertained Amtrak's requests that we become involved in the long-running dispute between it and Guilford. It has become apparent, however, that the issues that have separated the parties — at least on the surface — involve safety matters. Therefore, in exercising our authority, we have relied heavily on input from FRA, the Federal agency with the expertise and primary responsibility for rail safety.

In this proceeding, Guilford argues that TTCI's methodology was unreliable and its results inaccurate. Among its arguments, Guilford contends that: TTCI conducted stationary testing of track deflection at selected locations rather than at every location where the track did not meet the deflection criteria; TTCI's use of a 25-foot average deflection measurement hides deficient points within the 25-foot range; and even though TTCI determined that 166 feet of track in 14 locations did not meet the 2750 lb/in<sup>2</sup> standard, testing commissioned by Guilford suggested that track at certain additional locations did not meet that standard.

Nevertheless, FRA determined that TTCI's testing methodology is reasonable and practical and that its results are accurate. FRA stated in its July comments that it found "the testing methodology used by TTCI to measure track modulus was appropriate, and that the manner in which the data from the test was analyzed and reported . . . was also appropriate." FRA July comments, unnumbered second page. FRA stated further that it was "unable to identify any safety regulatory concern with the use of 115-pound rail on the upgraded Plaistow-Portland Line provided it is maintained to FRA Class 4 standards, will be subject to twice-weekly FRA mandated visual inspections, and that it will be periodically inspected by Amtrak's track geometry car." *Id.* FRA "therefore agrees with Amtrak's contention that the test results support approval of its request for Class 4 - 79 mph operation between Plaistow and Portland with the exception of the locations noted by Amtrak in [its] pleading." *Id.* at unnumbered third page. In its October comments, at 2, FRA reiterated that "[a]s long as the track is inspected and maintained in accordance with FRA [Track Safety Standards] specifications, the FRA does not take exception to the institution of 79 mph operations at any time." As stated in Weight of Rail I and Weight of Rail II, with regard to matters such as those presented here, we give substantial deference to FRA, which has significant expertise, experience, and primary responsibility regarding

railroad track safety standards. The FRA is satisfied that TTCI's testing was methodologically sound and its results accurate. Thus, so are we.

In addition to its concern about the adequacy of the TTCI testing, Guilford essentially argues that the line cannot be deemed to have met the Weight of Rail I criteria unless every foot of it is proven to be above the 2,750 lb/in<sup>2</sup> level. But the 2,750 lb/in<sup>2</sup> track modulus value was a rehabilitation — that is, construction or “quality control” (FRA October comments at 1) — standard, which means that testing had to be conducted to determine whether this standard was achieved. Track modulus values do not remain constant, and so “instituting the [2,750 lb/in<sup>2</sup>] value as a maintenance parameter [would create] an onerous and impractical standard for Amtrak to meet.”<sup>4</sup> Id.

TTCI conducted testing during September and November 2001. That testing indicated that 99.95% of the line met the track modulus level set out in Weight of Rail I. And even accepting all of Guilford's assertions as to particular track that it concluded was below par, it is apparent that all but a few hundred feet of the 78-mile line were at or above the 2,750 lb/in<sup>2</sup> level. FRA has indicated that it is satisfied with the weight of the rail used and the other conditions attending the track's rehabilitation, and that Amtrak should not be prevented from operating at speeds of up to 79 mph as long as the line is maintained in accordance with FRA Class 4 track safety standards. Accordingly, we now find that Amtrak has complied with Weight of Rail I, and we order Guilford to permit Amtrak to operate at FRA Class 4 speeds.<sup>5</sup>

The goal of our decisions in the Amtrak/Guilford proceedings has been to resolve matters related to access and rehabilitation, relying on FRA for its safety expertise. Because that goal has been met, our involvement is no longer needed or appropriate. As with other rail matters, we would expect that FRA will maintain oversight to the extent safety issues are concerned. We will therefore discontinue this proceeding.

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<sup>4</sup> In Weight of Rail I, we held that installation of 115-pound continuous welded rail on the line was sufficient for Amtrak operations at speeds of up to 79 miles per hour, under the condition that the line is rehabilitated and maintained to the 2750 lb/in<sup>2</sup> standard. The “rehabilitation and maintenance” language was taken directly from FRA comments and our use of that phrase may be the source of some confusion. In its October comments, at 1, FRA observed that the “rehabilitation and maintenance” language in fact “refers to the maintenance accomplished during rehabilitation” and is not a routine maintenance standard for this line.

<sup>5</sup> Amtrak requests that we adopt a speed table it has submitted as a condition of this order. We will not do so because the operating speeds set forth therein are matters that are more appropriately addressed by FRA's standards.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Subject to FRA's track safety requirements, Guilford must allow Amtrak to operate over the line at issue at speeds of up to 79 mph.
2. This proceeding is discontinued.
3. This decision is effective on its service date.

By the Board, Chairman Nober, Vice Chairman Burkes, and Commissioner Morgan.

Vernon A. Williams  
Secretary